

Appendix B – Public and Agency Scoping Comments

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Summary

Public notice of TVA's proposed land action appeared in the *Lenoir City News Herald*, *Maryville Daily Times*, and *Knoxville News-Sentinel* on Monday, January 22, 2007. TVA received comments from nine individuals and agencies. Issues to be addressed were identified relating to the following resource areas: land policy, land use, navigation and boating safety/congestion, floodplains, aquatic ecology, and threatened and endangered species. USACE issued a joint public notice on February 16, 2007, announcing a public comment period through March 17, 2007.

Land Policy

I respectfully submit that this request should be denied on the grounds that it fails to comply with current TVA Land Policy. TVA's Land Policy governing its retention and disposal of interests in real property with respect to Reservoir Properties appears to apply to McKeough's request as the real estate in question is "located on Fort Loudon Reservoir in Blount County." Under the Land Policy section related to "residential Use", this policy holds that: "*TVA shall not allocate lands or landrights for residential use or dispose of reservoir properties for residential use.*" Further, under the heading "Deed Restrictions over Private Lands", this policy notes that: "TVA will not remove or modify other deed restrictions for the purpose of facilitating residential development." Since the state purpose of the requested abandonment is "to allow the placement of fill *to develop a residential subdivision*" and this abandonment is described as "required before the residential subdivision could be constructed", the reason given by McKeough Land Company for the sought-after abandonment seems to squarely contradict TVA's Land Policy against disposing of "reservoir properties for residential use." (**Comment by:** April Morgan)

TVA's Land Policy governing retention and disposal of interests in real property applies in this case. TVA's Policy states directly that TVA will not allocate lands or landrights for residential development and this is exactly what the McKeough land Company, an out of state land development company whose interests are in developing subdivisions, is asking to be done. For this reason I respectfully ask that you adhere to your written and published Policy and deny The McKeough Land Company this request. (**Comment by:** Michael J. and Laurie Galvin)

I am COMPLETELY and ABSOLUTELY OPPOSED to this variance request. In light of the recent land use ruling by TVA, I would think this type of activity would not be allowed. No further changes to the lake should be allowed for private developments. (**Comment by:** Krystee Ervin)

However, it seems to me that "abandoning flowage rights" effectively constitutes allocating landrights for residential use in this case since the purpose of the requested abandonment is "to allow the placement of fill to develop a residential subdivision." Abandoning flowage rights also appears equivalent to removing or modifying deed restrictions for the purpose of facilitating residential development in this instance. As I noted in my previous letter, both of these actions – allocating landrights for residential use and removing or modifying deed restrictions for the purpose of facilitating residential developments – are explicitly prohibited in TVA's new Land Policy. Faced with this conflict between two sections of the Land Policy, I favor a conservative interpretation in keeping with TVA's mandate to wisely manage the lands and landrights for present and future generations, on which retains the right to flood up to a certain elevation point. (**Comment by:** April Morgan)

Land Use

If they can't get by with what they have, they should have bought a different piece of property.
(**Comment by:** *Krystee Ervin*)

I hope this is not another request for concessions on TVA's (people's) part for poor planning on a developers part. They knew the circumstances of the property BEFORE they planned the residential subdivision. The proposed houses will bring a good price because they abut TVA properties, so let them use their land by decreasing the number of dwellings. A denial will not stop the project but make them redesign the project and perhaps decrease the number of homes that will fit the property. WE ARE NOT RESPONSIBLE FOR THEIR POOR PLANNING AND THEY CANNOT TRY TO CONVINCE US THAT WE ARE! WE SHOULD NOT, NOR IT IS IT OUR RESPONSIBILITY TO ACCOMMODATE THEM. (**Comment by:** Robert Niles)

Boating Congestion

I am opposed to TVA releasing any rights on the shores of Fort Loudoun Reservoir. This waterway has become very congestion with commercial water traffic, personal watercraft and boats. Boaters do not have regards for the environment. During the summer months it is not any longer safe to swim in our cove because the refuse from the boats collect in the cove. The more building of homes/developments etc. on the water, the more the environment suffers. I have watched this change over the past 20+ years. (**Comment by:** *Dorothy McElyea*)

Floodplains

There seems to be no regard for the drainage needed from the land into the reservoir. The floodplain regulations were put in place to protect the environment. Please do not let the environment become more ravaged. (**Comment by:** *Dorothy McElyea*)

Aquatic Ecology

The Tennessee Wildlife Resources Agency continues to have concerns about the cumulative loss of shallow water habitat due to excavation for boat access, community boat docks, and marina facilities. The applicant proposes to dredge areas totaling 1.23 acres which would eliminate an area of shallow water habitat that is currently available for wading birds in the winter and is utilized as a nursery habitat for fish in the spring and summer. It is the opinion of the Tennessee wildlife Resources Agency that the applicant could redesign the proposal to avoid or minimize impacts to shallow water habitat. The Tennessee Wildlife Resources Agency requests that this permit be held in abeyance until the applicant agrees to redesign the proposal to avoid and minimize impacts to shallow water habitat and mitigate for the unavoidable permanent loss of shallow water habitat after the proposal is redesigned. (**Comment by:** *Tennessee Wildlife Resources Agency*)

Our agency is concerned about the increasing number of proposals to dredge shallow-water habitats which are also public resources, in order to accommodate private entities. It appears that there are adequate areas outside of the coves (near site H or between sites C and D) to construct the community dock that is proposed at site D and no dredging would be required. Therefore, based on the fact that there is not a legitimate need to dredge at site C and other areas appear to be adequate to construct the community dock without dredging, we recommend the proposed permit be denied. If the applicant resubmits a proposal that would not require dredging, we would likely not oppose the project. (**Comment by:** *U.S. Fish and Wildlife Agency*)

Threatened and Endangered Species

Endangered species collection records available to the Service do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project. We note, however, that collection records available to the Service may not be all-inclusive. However, based on the best information available at this time, we believe that the requirements of section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the action. (**Comment by:** *U.S. Fish and Wildlife Agency*)

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

June 4, 2007

Dr. Thomas O. Maher
Tennessee Valley Authority
400 West Summit Hill Dr.
Knoxville, Tennessee, 37902-1499

RE: TVA, LOWE'S FERRY SUBDIVISION, UNINCORPORATED, KNOX COUNTY

Dear Dr. Maher:

In response to your request, received on Monday, May 21, 2007, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process. You may also find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at www.state.tn.us/environment/hist/sect106.shtm.

Based on available information, we concur that the project as currently proposed will NOT ADVERSELY AFFECT ANY NATIONAL REGISTER OF HISTORIC PLACES-LISTED PROPERTY SO LONG AS THE FOLLOWING CONDITION (S) ARE MET:

The conditions enumerated in your letter of May 16, 2007 regarding vegetative screening of the project from historic properties are applied to this project.

Unless project plans change, and so long as the condition is met, this office has no objection to the implementation of this project. Should project plans change, please contact this office to determine what additional action, if any, is necessary. Questions and comments may be directed to Joe Garrison (615) 532-1550-103. Your cooperation is appreciated.

Sincerely,

Richard G. Tune
Deputy State Historic
Preservation Officer

RGT/jyg



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

May 17, 2007

Mr. Thomas Maher
Tennessee Valley Authority
400 W. Summit Hill Drive
WT 11D - Cultural Resources
Knoxville, Tennessee 37902

RE: TVA, ARCHAEOLOGICAL ASSESSMENT, LOWE'S FERRY SUBDIVISION,
UNINCORPORATED, KNOX COUNTY

Dear Mr. Maher:

At your request, our office has reviewed the above-referenced archaeological survey final report in accordance with regulations codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739). We find that the report meets the Tennessee SHPO Standards and Guidelines For Archaeological Resource Management Studies.

Your continued cooperation is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard G. Tune".

Richard G. Tune
Deputy State Historic
Preservation Officer

RGT/jmb

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities

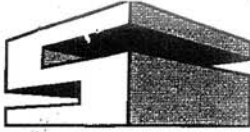
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ENGINEERING, INC.

CIVIL ENGINEERING, LAND SURVEYING, & LAND PLANNING



May 16, 2007

J. Ruben Hernandez
Project Manager, Operations Division
Department of the Army
Nashville District, Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, TN 37214

632-2915 T
632-7451 F

Re: File No. 200601417 Proposed Community Docks and C
Miles 621.6 and 623.1, Left Bank, Tennessee River (Fort Lo
Blount County, Tennessee

Dear Mr. Hernandez,

The following is a response to the comments in your letter dated May 10, 2007.

- A) The proposed dredge at site C is required to provide winter access to the lots with shoreline frontage in the cove. These lots have dock rights and will have individual docks, to be permitted through TVA by homeowner. The location of the community docks are driven by TVA's dock placement criteria. The goal is for individual docks for frontage lots. TVA's placement/separation criteria for docks prevents individual docks in some locations on this property due to shoreline geometry. We have evaluated several different placements for the docks and with TVA's input and navigation restraints we developed the layout submitted in the application.
- B) We believe we are increasing shallow water habitat by the proposed dredge at site "C" and "D." The coves isolated by these "land bridges" have significant shore line that would become connected to the reservoir year round. Currently, these two coves are isolated from the reservoir by a "land bridge" with an elevation of approximately 810 msl. The reservoir elevation during spawning season will be less critical if the dredge occurs, allowing access to 2134 linear feet additional, and naturally wave protected, shoreline.

P.O. Box 4878
Maryville, TN 37802-4878
Phone (VOL) 984-3905
FAX (VOL) 981-2815
www.sterling.us.com

31 MAY 2007

The proposed dredge on this site was carefully selected to minimize the impact on shallow water habitat. There are several areas the developer originally desired to dredge to create better navigation access to the shoreline that were eliminated to minimize impact on shallow water habitat. The west end of the property is defined by a large cove with two shallow "fingers" that offer significant spawning area. The lots in this cove have individual dock rights extinguished in favor of a small community dock to prevent the need for dredging in this area.

We are not opposed to spawning benches; however, the practicality of these benches is unknown. The number and frequency suggested in the comments would create a navigation mine field along the shore line for boats and swimmers. This property is surrounded by relatively shallow water with mud bottom.

The areas to be dredged, site "C" and "D" are exposed to wave action from the main channel and are only under water during summer pool. We do not feel that the proposed dredge of these two sites significantly effect fish spawning habitat.

Sincerely,



Russell N. Rackley, P.E.
Project Manager

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities

May 10, 2007



Regulatory Branch

SUBJECT: File No. 200601417; Proposed Community Docks and
Dredging Between Miles 621.6 and 623.1, Left Bank, Tennessee
River (Fort Loudoun Lake), in Blount County, Tennessee

Russell N. Rackley, P.E.
Project Manager
Sterling Engineering, Inc.
P.O. Box 4878
Maryville, Tennessee 37802-4878

Dear Mr. Rackley:

Enclosed are copies of the substantive comments that were received in response to the public notice associated with your proposal. The Tennessee Historical Commission (THC), Tennessee Wildlife Resources Agency (TWRA), and U.S. Fish and Wildlife Service (USFWS) commented.

We have determined that your input (views and/or supplemental information) on the following issues is essential before we can make a final decision on your permit application.

a. Dredging Justification. TWRA and USFWS believe that the project could be redesigned to avoid most dredging impacts. For example, USFWS points out that no dock is proposed at Site C; therefore, dredging should not be allowed. USFWS believes that a better dock location exists between sites C and D or near Site H. Based on this assumption, they recommend denial of the current proposal. Action: Please explain why you have to dredge the mouth of Site C cove where no docks are proposed. Would you consider locating the docks at the locations recommended by USFWS? We do not have any data to indicate existing water depths at those areas to evaluate this possibility. Please comment.

b. Loss of Shallow-Water Habitat. Both agencies are concerned for the cumulative loss of shallow-water habitat. TWRA indicates that if dredging is allowed spawning benches should be constructed to partially mitigate for the loss. The agency recommends the installation of approximately 39 benches which should be spaced 100' apart. Action: It would be preferable to place these structures in shoreline areas close to the dredging locations. Then there is the question of potential collisions of boats and personal watercraft with the structures. How do you feel about such placement? If the structures are not installed, an alternate form of mitigation must be found. Please comment.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

-2-

For your information, the Corps of Engineers is the sole federal agency responsible for making a decision on the merits of your application. Should you wish to meet directly with any commenting party to discuss issues that have been raised, it would be helpful to inform us of the meeting. If possible, we would be happy to send a representative.

Your response to the specific issues listed above must be submitted to our office within 30 days of receipt of this letter. If you require more time to gather and submit this information, you should contact us and provide supporting justification why the additional time is necessary.

Please note, that should you fail to provide the requested information or justify the need for additional time, we will consider your application withdrawn. However, should we obtain sufficient information on these issues from other sources during this time, we may be able to reach a final permit decision in lieu of withdrawing your application.

If you have any questions, please contact me at the above address or call (615) 369-7519.

Sincerely,

J. Ruben Hernandez
Project Manager
Operations Division

Enclosures

Copy Furnished (w/encls):

Mr. Matt Phares
McKeough Land Company
208 Franklin Street
Grand Haven, Michigan 49417

— Mr. Stan E. Davis
Tennessee Valley Authority

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

February 26, 2007

Mr. J. Ruben Hernandez
U.S. Army Corps of Engineers, Nashville District
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214

0 5 MAR 2007

RE: COE-N, PN# 07-16/LOWE'S FERRY SUBDIVISION, UNINCORPORATED,
BLOUNT COUNTY

Dear Mr. Hernandez:

The above-referenced undertaking received on Thursday, February 22, 2007 has been reviewed with regard to National Historic Preservation Act compliance by the participating federal agency or its designated representative. Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

In order to complete our review of this undertaking, this office will need to receive from you the review comments and recommendations of your agency's cultural resources staff regarding this undertaking's potential to affect historic properties.

Upon receipt of the additional information, we will complete our review of this undertaking as expeditiously as possible. Until such time as this office has rendered a final comment on this project, your Section 106 obligation under federal law has not been met. Please inform this office if this project is not funded or canceled by the federal agency. Questions and comments may be directed to Jennifer M. Barnett (615) 741-1588, ext. 17.

Your cooperation is appreciated.

Sincerely,

Richard G. Tune
Deputy State Historic
Preservation Officer

RGT/jmb



TENNESSEE WILDLIFE RESOURCES AGENCY

ELLINGTON AGRICULTURAL CENTER
P. O. BOX 40747
NASHVILLE, TENNESSEE 37204

March 12, 2007

J. Ruben Hernandez
Nashville District Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, TN 37214

Re: Public Notice #07-16
Applicant: McKeough Land Company
Proposed Construction of Private Community Boat Docks at Four Locations and the
Dredging of Three Locations Totaling 6,640 Cubic Yards of Material
Mile 621.8, Mile 622.0, Mile 622.2, Mile 622.3, and Mile 623.2 Along the Left Bank of
the Tennessee River, Fort Loudoun Lake
Blount County, Tennessee

Dear Mr. Hernandez:

The applicant proposes to dredge three site totaling approximately 6,640 cubic yards of material from Fort Loudon Lake in Blount County for purpose of boat access, constructing three small community boat docks, and constructing a community marina. The three community boat docks are proposed to have a total of 25 boat slips and the community marina is proposed to have 32 boat slips.

The Tennessee Wildlife Resources Agency continues to have concerns about the cumulative loss of shallow water habitat due to excavation for boat access, community boat docks, and marina facilities. There appears to be an increasing number of these requests for excavation. Shallow water habitat is the most productive habitat in lentic waters. Shallow water habitat is utilized as nursery areas for fish and foraging areas for turtles and wading birds. The excavation for this community boat dock would result in a permanent loss of shallow water habitat. The applicant proposes to dredge areas totaling 1.23 acres which would eliminate an area of shallow water habitat that is currently available for wading birds in the winter and is utilized as a nursery habitat for fish in the spring and summer. The applicant proposes to dredge about 0.34 acres of shallow water habitat at Site C to allow access to a small cove where no boat docks are proposed. Similarly, the applicant proposes to dredge a total of 0.89 acres of shallow water habitat at Site D for boat access into a cove and Site E to create sufficient navigation depths in this cove for a small community boat dock (6 boat slips). It is the opinion of the Tennessee Wildlife Resources Agency that the applicant could redesign the proposal to avoid or minimize impacts to shallow water habitat.

If the permit is issued, it is the opinion of the Tennessee Wildlife Resources Agency that the applicant should mitigate for the permanent loss of shallow water habitat. Enhancement activities such as the construction and placement of spawning benches would partially mitigate

The State of Tennessee

14 MAR 2007

IS AN EQUAL OPPORTUNITY, EQUAL ACCESS, AFFIRMATIVE ACTION EMPLOYER

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities

for the loss of the shallow water habitat by partial replacement of function. If enhancement activities are to be employed for this mitigation, we recommend a 4:1 ratio by acreage. We currently recommend that spawning benches be placed 100 feet apart at suitable depth with suitable substrate and on points. We recommend that 32 spawning benches be installed per acre of impact, or in this case 39 spawning benches as currently proposed to mitigate for the permanent loss of shallow water habitat associated with this project. The location and placement of these structures should be coordinated with TWRA Region IV Reservoir Fisheries Biologist, Doug Peterson, (telephone number: 423-587-7037) to ensure the best results. We can provide information on fish spawning bench construction and placement upon request.

The Tennessee Wildlife Resources Agency requests that this permit be held in abeyance until the applicant agrees to redesign the proposal to avoid and minimize impacts to shallow water habitat and mitigate for the unavoidable permanent loss of shallow water habitat after the proposal is redesigned. If the applicant fails to agree to the above condition, we request that the permit be denied.

We thank you for the opportunity to comment on this permit application.

Sincerely,



Robert M. Todd
Fish and Wildlife Environmentalist

cc: Rob Lindbom, Region IV Habitat Biologist
Bob Nichols, Region IV Manager
Dan Eagar, Division of Water Pollution Control
Lee Barclay, U.S. Fish and Wildlife Service
Darryl Williams, Environmental Protection Agency



United States Department of the Interior

FISH AND WILDLIFE SERVICE
446 Neal Street
Cookeville, TN 38501

March 14, 2007

16 MAR 2007

Lt. Colonel Steven J. Roemhildt
District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214

Attention: Mr. J. Ruben Hernandez, Regulatory Branch

Subject: Public Notice No. 07-16. McKeough Land Company, Proposed Community Boat Docks and Dredging Between Tennessee River Miles 621.6 and 623.1, Left Bank, Fort Loudon Lake, Blount County, Tennessee.

Dear Colonel Roemhildt:

Fish and Wildlife Service personnel have reviewed the subject public notice. The proposed project would involve dredging approximately 6,640 cubic yards of material from three locations, and the construction of five community boat docks between Tennessee River Miles 621.6L and 623.1L, Fort Loudon Lake, Blount County, Tennessee. The excavated material would be transported to an upland location where it would be deposited and properly stabilized. The purpose of the proposed project is to provide 71 private boat slips for residents of the Lowes Ferry Subdivision. The following constitute the comments of the U.S. Department of the Interior, provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Endangered species collection records available to the Service do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project. We note, however, that collection records available to the Service may not be all-inclusive. Our data base is a compilation of collection records made available by various individuals and resource agencies. This information is seldom based on comprehensive surveys of all potential habitat and thus does not necessarily provide conclusive evidence that protected species are present or absent at a specific locality. However, based on the best information available at this time, we believe that the requirements of section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the action.

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities

Our agency is concerned about the increasing number of proposals to dredge shallow-water habitats, which are also public resources, in order to accommodate private entities. Shallow water is an important nursery and forage area for most fish species. The continued loss of these shallow-water areas will eventually cause adverse impacts to the fisheries that utilize them. Based on the attached plans, it appears that the applicant proposes to dredge the mouth of two small coves (sites C and D) in order to allow boat access to the coves. A small community dock is proposed in the cove at site D, but apparently nothing is proposed within the cove at site C (no proof that there is a need to dredge other than to allow boats access to the cove). It appears that there are adequate areas outside of the coves (near site H or between sites C and D) to construct the community dock that is proposed at site D and no dredging would be required. Therefore, based on the fact that there is not a legitimate need to dredge at site C and other areas appear to be adequate to construct the community dock without dredging, we recommend the proposed permit be denied. If the applicant resubmits a proposal that would not require dredging, we would likely not oppose the project.

Thank you for this opportunity to review the subject notice. Please contact Robbie Sykes of my staff at 931/528-6481 (ext. 209) if you have questions about these comments.

Sincerely,



Lee A. Barclay, Ph.D.
Field Supervisor

xc: Robert Todd, TWRA, Nashville, TN
Dan Eagar, TDEC, Nashville, TN
Darryl Williams, EPA, Atlanta, GA

April Morgan
P.O. Box 385
Louisville, TN 3777

Erica Wadl,
Tennessee Valley Authority
260 Interchange Park Drive
Lenoir City, TN 37772
Tel. (865) 632-1309
Fax (865) 632-1313
Email: efwadl@tva.gov

Feb. 1, 2007

Dear Erica Wadl,

This letter is in response to TVA's request for written comments to be received no later than February 23, 2007 on a proposed action sought by McKeough Land Company, Inc. According to the attached publication, McKeough Land Company, Inc. requests that "TVA abandon a 1.45 acre portion of an existing flowage easement over two private tracts of land to allow the placement of fill to develop a residential subdivision." I respectfully submit that this request should be denied on the grounds that it fails to comply with current TVA Land Policy, available at www.tva.gov/river/landandshore/land_policy.htm and attached to this letter.

TVA's Land Policy governing its retention and disposal of interests in real property with respect to Reservoir Properties appears to apply to McKeough's request as the real estate in question is "located on Fort Loudon Reservoir in Blount County." Under the Land Policy section related to "Residential Use", this policy holds that: "TVA shall not allocate lands or landrights for residential use or *dispose of reservoir properties for residential use.*" Further, under the heading "Deed Restrictions over Private Lands", this policy notes that: "TVA will not remove or modify other deed restrictions for the purpose of facilitating residential development." Since the stated purpose of the requested abandonment is "to allow the placement of fill *to develop a residential subdivision*" and this abandonment is described as "required before the residential subdivision could be constructed", the reason given by McKeough Land Company for the sought-after abandonment seems to squarely contradict TVA's Land Policy against disposing of "reservoir properties for residential use."

Hence, because McKeough Land Company's request is inconsistent with TVA Land Policy governing the abandonment of reservoir properties for residential use, I believe it should be denied.





Thank you for considering my comments as part of TVA's decision-making process on this proposed action. I would appreciate any further information you can provide about the matter.

Sincerely,



April Morgan

FEB 5 2007

		<i>fvi</i> from <i>tva</i>
		

**Request for TVA to Abandon
Flowage Easement Rights**


McKeough Land Company, Inc. is requesting TVA abandon a 1.45 acre portion of an existing flowage easement over two private tracts of land to allow the placement of fill to develop a residential subdivision.

The 1.45 acre parcel is located on Fort Loudoun Reservoir in Blount County. Due to the existing flowage easement and floodplain regulations, the abandonment would be required before the residential subdivision could be constructed.

TVA is interested in your comments on the potential of the proposed action to affect the environment, historic properties, and to identify any other issues associated with this proposal. These comments will be used to help TVA reach a decision on the proposed action.

All written comments on this proposed action must be received by February 23, 2007.

Comments should be directed to:
Erica Wadl
Tennessee Valley Authority
260 Interchange Park Drive
Lenoir City, Tennessee 37772
865-632-1309
Fax: 865-632-1313
E-Mail: efwadl@tva.gov





TVA Land Policy

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Policy Governing the Tennessee Valley Authority's Retention, Disposal and Planning of Interests in Real Property

The Tennessee Valley Authority (TVA) has been charged by Congress with improving navigation, controlling floods, providing for the proper use of marginal lands, providing for industrial development and providing power at rates as low as feasible, all for the general purpose of fostering the physical, economic, and social development of the Tennessee Valley region. The lands which TVA stewards in the name of the United States are some of the most important resources of the region. They have provided the foundation for the great dams and reservoirs that protect the region from flooding and secure for its residents the benefits of a navigable waterway and low-cost hydro-electricity. TVA's lands are the sites for its power generating system and the arteries for delivering power to those that need it. Many of the region's parks, recreation areas, and wildlife refuges that are so important for the region's quality of life grew up from lands that TVA made available. And TVA's lands often have been the catalyst for public and private economic development activities that support all of these activities.

TVA originally acquired approximately 1.3 million acres of land in the Tennessee Valley. The construction and operation of the reservoir system inundates approximately 470,000 acres with water. TVA has already transferred or sold approximately 508,000 acres, the majority of which was transferred to other federal and state agencies for public uses. TVA currently owns approximately 293,000 acres which continue to be managed pursuant to the TVA Act.

As stewards of this critically important resource, TVA has a duty to manage its lands wisely for present and future generations. Accordingly, it is TVA's policy to manage its lands to protect the integrated operation of the TVA reservoir and power systems, to provide for appropriate public use and enjoyment of the reservoir system, and to provide for continuing economic growth in the Valley. Recognizing that historical land transfers have contributed substantially to meeting multipurpose objectives, it further is TVA's policy to preserve reservoir lands remaining under its control in public ownership except in those rare instances where the benefits to the public will be so significant that transferring lands from TVA control to private ownership or another public

entity is justified. This policy is explicated below.

Reservoir Properties

Land Planning

TVA shall continue to develop reservoir land management plans for its reservoir properties with substantial public input and with approval of the TVA Board of Directors. The land use allocations will be determined with consideration of the social, economic and environmental conditions around the reservoir. TVA shall consider changing a land use designation outside of the normal planning process only for water-access purposes for industrial or commercial recreation operations on privately owned backlying land or to implement TVA's Shoreline Management Policy. Reservoir properties that have become fragmented from the reservoir will be evaluated to determine their public benefit. If it is determined by TVA's Chief Executive Officer that these fragmented properties have little or no public benefit they shall be declared surplus and sold at public auction to the highest bidder in the same manner as surplus power or commercial properties.

Residential Use

TVA shall not allocate lands or landrights for residential use or dispose of reservoir properties for residential use.

Retail or Other Non-industrial Commercial Use

TVA shall not allocate lands for retail or other non-industrial commercial use or dispose of reservoir properties for such use.

Economic Development

TVA shall consider disposing of reservoir lands or land rights for industrial purposes or other businesses if the TVA property is located in an existing industrial park, or is designated for such purposes in a current reservoir land management plan and verified as suitable for such use by RSO&E and ED staff in a property survey. The TVA Board directs staff to complete this survey within six months of the approval of this policy. The TVA Board recognizes that property with water access, for either navigation or water supply, is a limited resource in the Valley and has preference for businesses that require water access. Future reservoir land management plans will consider industrial development opportunities as land allocations are made. TVA shall consider disposing of non-waterfront reservoir properties in industrial parks for any purpose permitted by the industrial park covenants. TVA shall not allocate lands or landrights for retail use or dispose of reservoir land or landrights for such use.

Recreation

TVA shall consider leasing or granting limited easements over lands for the development of commercial recreation facilities or public recreation purposes if the property is so designated in a

reservoir land management plan and a survey conducted by RSO&E determines that the site remains suitable for recreational uses and a continued need exists for such use. The TVA Board directs staff to complete this survey within six months of the approval of this policy. Commercial recreation is defined as recreation with facilities that are provided for a fee to the public intending to produce a profit for the owner/operator. Public recreation is defined as recreation on publicly owned land with facilities developed by a public agency (or their concessionaire) and provides amenities open to the general public.

Commercial Recreation

TVA leases or easements for commercial recreation purposes shall limit the use primarily to water-based recreation designed to enhance the recreation potential of the natural resources of the river and be a stimulus for regional economic development. TVA leases or easements for commercial recreation purposes will contain restrictions against residential use, and no long term accommodations or individually owned units will be permitted.

Public Recreation

TVA leases or easements for public recreation purposes will contain restrictions against residential use, cabins, or other overnight accommodations (other than campgrounds) except if a recreation area is owned by a State or State agency and operated as a component of a State Park system in which case cabins and other overnight accommodations will be permitted.

Deed Restrictions over Private Lands

The TVA Board recognizes that much of TVA's lands were transferred upon specific agreement among the parties to conduct activities that would enhance recreation opportunities in the Valley. TVA will continue to consider the release or modification of flowage rights no longer necessary to TVA to operate the river system. TVA will consider the removal or modification of deed provisions to facilitate industrial development. TVA will also consider the removal or modification of deed restrictions that result in the public having recreational access to the tract, or if the tract is already open to the public, maintains that access. TVA will not remove or modify other deed restrictions for the purpose of facilitating residential development. To the extent permitted by the language of deed or other transfer or contractual instrument, TVA will administer its interest in former TVA land to achieve the goals of this policy.

Operational Uses of TVA Properties

TVA shall continue to utilize reservoir properties to meet the operational needs of the agency and its distributors as well as provide for public infrastructure needs such as roads, water and sewer lines, and other utilities, but will only consider requests for private infrastructure where TVA determines no other practicable alternative exists. Nothing in this policy is intended to prevent the

disposal of tracts of land upon the recommendation of the General Counsel to settle claims or litigation or to address issues of contamination or potential contamination. In addition, TVA will continue to work with development agencies (and other partners) throughout the Valley to implement previously executed agreements.

Power & Commercial Properties

TVA's nonreservoir property—primarily power and commercial properties and mineral holdings--shall continue to be managed as power assets. The TVA Board directs staff to undertake a review of TVA mineral holdings for later policy consideration. Retention and disposal decisions will be primarily based on business considerations consistent with the TVA Act and other applicable requirements. TVA may enter into special arrangements with the distributors of TVA power. In addition, TVA may relinquish transmission line rights, if they are determined to be unnecessary for present or future operations and the current owner agrees to pay the enhanced fair market value of the property. In all other instances, TVA shall emphasize sales that generate the maximum competition among bidders at public auction and where possible shall not include use restrictions other than those designed to protect TVA's program interests or to meet legal or environmental requirements.

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Erica Wadl
Tennessee Valley Authority
260 Interchange Park Drive
Lenoir City, TN 37772
Tel. (865) 632-1309
Fax (865) 632-1313
Email: efwadl@tva.gov

February 6, 2007

Dear Erica Wadl,

I am writing this letter in response to TVA's request for written comments to be received no later than February 23, 2007 on a proposed action sought by McKeough Land Company, Inc. The land company is requesting that TVA abandon a 1.45 acre portion of an existing flowage easement over 2 private tracts of land to allow placement of fill to develop a residential subdivision. I respectfully request that this application be denied because it fails to comply with TVA's current Land Policy.

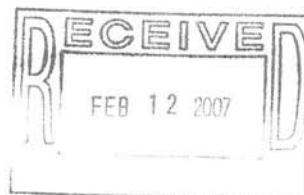
TVA's Land Policy governing retention and disposal of interests in real property applies in this case. TVA's Policy states directly that TVA will not allocate lands or landrights for residential development and this is exactly what the McKeough Land Company, an out of state land development company whose interests are in developing subdivisions, is asking to be done. For this reason I respectfully ask that you adhere to your written and published Policy and deny The McKeough Land Company this request.

As concerned citizens whose property is adjacent to TVA land we would like to be informed as to your decision in this matter.

Sincerely,



Michael J. and Laurie Galvin
3421 Seebers Court
Louisville, TN. 37777



Wadl, Erica Fritz

From: Ervin, Krystee P. [ervinkp@ornl.gov]
Sent: Monday, January 29, 2007 9:31 AM
To: Wadl, Erica Fritz
Subject: dredging comments

I am sending this e-mail in response to your request for comments concerning a request for dredging activity on the Blount County side of Ft. Loudon lake. This is a 1.45 acre parcel and the request is associated with a subdivision development. I am COMPLETELY and ABSOLUTELY OPPOSED to this variance request. In light of the recent land use ruling by TVA, I would think this type of activity would not be allowed. No further changes to the lake should be allowed for private developments. If they can't get by with what they have, they should have bought a different piece of property.
Sincerely,

Krystee Ervin
1190 Deaton Road
Lenoir City, TN 37772
Ft. Loudon Lake shore resident

02/01/2007

Wadl, Erica Fritz

From: Dottie McElyea [gmcelyea@mindspring.com]
Sent: Monday, January 29, 2007 12:12 PM
To: Wadl, Erica Fritz
Subject: Flowage Easement Rights 1.45 acre parcel

Dear Ms. Wadl,

I am opposed to TVA releasing any rights on the shores of Fort Loudoun Reservoir. This water-way has become very congested with commercial water traffic, personal watercraft and boats. Boaters do not have regards for the environment. During the summer months it is not any longer safe to swim in our cove because the refuse from the boats collect in the cove. The more building of homes/developments etc. on the water, the more the environment suffers. I have watched this change over the past 20+ years.

There seems to be no regard for the drainage needed from the land into the reservoir. The floodplain regulations were put in place to protect the environment. Please do not let the environment become more ravaged.
Thank you for the opportunity to express this opinion.
Dorothy McElyea

Wadl, Erica Fritz

From: Bob Niles [bob@nilescafe.com]
Sent: Monday, January 22, 2007 11:23 AM
To: Wadl, Erica Fritz
Subject: McKeough Land Co. Request

I hope this is not another request for concessions on TVA's (people's) part for poor planning on a developers part. They knew the circumstances of the property BEFORE they planned the residential subdivision. The proposed houses will bring a good price because they abut TVA properties, so let them use their land by decreasing the number of dwellings. A denial will not stop the project but make them redesign the project and perhaps decrease the number of homes that will fit the property. WE ARE NOT RESPONSIBLE FOR THEIR POOR PLANNING AND THEY CANNOT TRY TO CONVINCE US THAT WE ARE! WE SHOULD NOT, NOR IT IS IT OUR RESPONSIBILITY TO ACCOMMODATE THEM. Sincerely, Robert Niles, 4017 Havenwood Ct. Maryville, TN 37804

02/01/2007

Comments via a phone conversation on 2/1/2007
Ken Mack and Jacklyn O'Conner
(865) 984-4709

The above mentioned have lived in the area for 100 years. They oppose the development and release of flowage easement rights to accommodate the Lowe's Ferry subdivision. They are concerned about the increased density and the lack of infrastructure to support such an increase. They have been to various public meetings and voiced their concerns that the development would have in their community. They are not against development but are against the crowding that this development would cause. The land company seems to be disregarding the concerns and needs of the current residents in the area. The land company overpaid for the property and is attempting to make up for this by having such a high density. Jacklyn is also concerned about gas emissions and the increase of gas emissions that would ensue with the increase of residents in the area. They both have health concerns, safety concerns, and community concerns pertaining to the project. "This (project) goes to the dollar not to the good of the people."

Lowe's Ferry Subdivision – Proposed Flowage Easement
Abandonment and Water Use Facilities



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

November 22, 2006

Mr. Thomas O. Maher
Tennessee Valley Authority
400 West Summit Hill Dr.
Knoxville, Tennessee, 37902-1499

RE: TVA, LOWES FERRY SUBDIVISION, UNINCORPORATED, KNOX COUNTY

Dear Mr. Maher:

In response to your request, received on Thursday, November 16, 2006, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process. You may also find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at www.state.tn.us/environment/hist/sect106.shtm.

Considering available information, we find, after applying the Criteria of Adverse Effect codified at 36 CFR Part 800, that the project as currently proposed will ADVERSELY AFFECT PROPERTIES THAT ARE ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES. According to the report prepared by BHE Environmental, Inc. the National Register listed James Gillespie House is only 300 feet away from the proposed subdivision. Yet the report claims that this listed property will not be adversely affected by the undertaking. This claim seems to be a bit incredulous. Furthermore, the possibly National Register eligible property labeled as Kn-3787 is located directly across the river from the proposed subdivision. This clear sight line to the subdivision appears to be a visual adverse effect.

In addition, the report has deficiencies of presentation that must be corrected. In order to assess National Register eligibility of other properties located within the undertaking's Area of Potential Effects we will need to have labeled photographs of all the buildings. Also, the location of all the buildings that are assessed for eligibility need to be located on a 7 1/2 minute series topographic map.

You should now inform the Advisory Council on Historic Preservation of this adverse effect determination and begin immediate consultation with our office. Please enclose a copy of this determination in your notification to the Council as delineated at 36 CFR Part 800. Until you have received a final comment on this project from this office and the Council, you have not completed the Section 106 review process. Please direct questions and comments to Joe Garrison (615) 532-1550-103. We appreciate your cooperation.

Sincerely,

Richard G. Tune
Deputy State Historic
Preservation Officer

RGT/jyg



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

November 20, 2006

Mr. Thomas Maher
Tennessee Valley Authority
400 W. Summit Hill Drive
WT 11D - Cultural Resources
Knoxville, Tennessee 37902

RE: TVA, ARCHAEOLOGICAL ASSESSMENT, LOWE'S FERRY SUBDIVISION,
UNINCORPORATED, BLOUNT COUNTY, TN

Dear Mr. Maher:

At your request, our office has reviewed the above-referenced archaeological survey reports in accordance with regulations codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739). Based on the information provided, we concur that two tracts of 300 and 100.35 acres within the project area that have been surveyed to so far contain no archaeological resources eligible for listing in the National Register of Historic Places. We further concur that a strategy of phased compliance is an appropriate means for addressing the identification of archaeological resources and the Tennessee Valley Authority's Section 106 obligations for the remainder of the area of potential effect.

If project plans are changed or archaeological remains are discovered during initial construction, please contact this office to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act.

Your continued cooperation is appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard G. Tune".

Richard G. Tune
Deputy State Historic
Preservation Officer

RGT/jmb